In the High Court of Punjab and Haryana, at Chandigarh.

C.W.P. No. 9536 of 2007

Date of Decision: 17.11.2007

Devinder Kaur

…Petitioner

Versus

State of Punjab and Others

…Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Pavan Malik, Advocate
for Mr. S.K. Arora, Advocate
for the petitioner.

Mr. Ram Lal Gupta, Additional Advocate General, Punjab, for the respondents.

RAJESH BINDAL, J.

The case was fixed for consideration of interim order passed by this Court on July 2, 2007, whereby recovery from the petitioner was stayed.

Learned counsel for the parties submit that the issues raised in the present petition are squarely covered by the judgement of this Court in ***Harnam Singh v. State of Punjab and others*** ***C.W.P. No.17571 of 2004 decided on 30.7.2007,*** accordingly, even the main writ petition can be taken up and disposed of finally.

The challenge in the present writ petition is to memo letter dated June 8, 2007 (Annexure P-3), whereby sum of Rs. 1,53,572/- is sought to be recovered from the petitioner on account of alleged excess payment due to wrong fixation of pay. Learned counsel for the petitioner submitted that the petitioner did not have any role to play in wrong fixation of her pay by the respondents as the respondents themselves committed error in fixing the pay

for which petitioner cannot be made to suffer. In the absence of any fraud or misrepresentation attributable to the petitioner the amount already paid to the petitioner cannot be recovered as she was not at fault at all and it will be too harsh on her.

The petitioner also referred to and relied upon the judgement of Hon'ble the Supreme Court in ***Sahib Ram v. State of Haryana and Others 1995(1) S.C.T. 668***. It is not denied that the wrong fixation of pay was not on account of any misrepresentation or fraud on the part of the petitioner, if that is so, in terms of judgement of Hon'ble the Supreme Court in ***Sahib Ram's case*** *(supra)* and the views expressed by this Court following the same, the claim made by the petitioner deserves to be accepted. Accordingly, the prayer made by the petitioner is accepted and the impugned recovery notice dated June 8, 2007 (Annexure P-3) is quashed.

The writ petition is disposed of in the manner as stated above.

(Rajesh Bindal)
Judge

November 17, 2007
"DK"